



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAY 18 2009

REPLY TO THE ATTENTION OF:

(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Daniel Sajkowski
Business Unit Leader
BP Products North America, Inc.
2815 Indianapolis Boulevard
Whiting, Indiana 46394

Dear Mr. Sajkowski:

The U.S. Environmental Protection Agency finds that BP Products North America, Inc. (BP or you) is violating Section 112 of the Clean Air Act (CAA), 42 U.S.C. § 7412, at its petroleum refinery, located at 2815 Indianapolis Boulevard in Whiting, Indiana (BP Whiting). Specifically, BP is violating the National Emission Standards for Hazardous Air Pollutants for Benzene Waste Operations at 40 C.F.R. Part 61, Subpart FF.

Section 113 of the CAA gives us several enforcement options to resolve these violations, including issuing an administrative compliance order, issuing an administrative penalty order, bringing a judicial civil action, and bringing a judicial criminal action.

We are offering you the opportunity to request a conference with us about the violations alleged in the FOV. A conference should be requested within 10 days following receipt of this notice. A conference should be held within 30 days following receipt of this notice. This conference will provide you a chance to present information on the identified violations, any efforts you have taken to comply, and the steps you will take to prevent future violations. Please plan for your facility's technical and management personnel to take part in these discussions. You may have an attorney represent and accompany you at this conference.

The EPA contact in this matter is Kathryn Siegel. You may call her at (312) 353-1377 if you wish to request a conference. EPA hopes that this FOV will encourage BP Whiting's compliance with the requirements of the CAA.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cheryl L. Newton".

Cheryl L. Newton
Director

Air and Radiation Division

Enclosure

cc: Phil Perry, Chief
Compliance and Enforcement Branch
Office of Air Quality
Indiana Department of Environmental Management

IN THE MATTER OF:

NOTICE OF VIOLATION

EPA-5-09-IN-13

Proceedings Pursuant to
the Clean Air Act,
42 U.S.C. §§ 7401 et seq.

The U.S. Environmental Protection Agency finds that BP Products North America, Inc. (BP or you) is violating Section 112 of the Clean Air Act (CAA), 42 U.S.C. § 7412, at its petroleum refinery, located at 2815 Indianapolis Boulevard in Whiting, Indiana (BP Whiting). Specifically, BP is violating the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Benzene Waste Operations at 40 C.F.R. Part 61, Subpart FF, as follows:

1. Pursuant to Section 112(d) of the CAA, on March 7, 1990, EPA promulgated the National Emission Standard for Benzene Waste Operations (Benzene Waste NESHAP) (55 Fed. Reg. 8292). These regulations are codified at 40 C.F.R. Part 61, Subpart FF, §§ 61.340 – 61.359. On March 5, 1992, EPA issued a stay of effectiveness of the Benzene Waste NESHAP and proposed clarifying amendments (57 Fed. Reg. 8012). On January 7, 1993, EPA promulgated the clarifying amendments to the Benzene Waste NESHAP and affected facilities were given 90 days to come into compliance with the regulations. 58 Fed. Reg. 3072.
2. 40 C.F.R. § 61.05(c) prohibits any owner or operator from operating an existing source in violation of an applicable NESHAP 90 days after the effective date of the standard, unless a waiver was granted by the Administrator pursuant to § 61.11, or unless an exemption was granted by the President under Section 112(c)(2) of the CAA.
3. According to 40 C.F.R. § 61.340(a), the Benzene Waste NESHAP applies to owners and operators of, among other sources, petroleum refineries. 40 C.F.R. § 61.341 defines “petroleum refinery” as any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products through the distillation of petroleum, or through the redistillation, cracking, or reforming of unfinished petroleum derivatives.

4. Facilities that are subject to the Benzene Waste NESHAP and have a total annual benzene quantity greater than or equal to 10 Mg/yr, as determined by the procedures outlined in 40 C.F.R. § 61.342(a), shall manage and treat facility waste in accordance with 40 C.F.R. § 61.342(c), (d), or (e).
5. Facilities that choose to comply with the compliance option at 40 C.F.R. § 61.342(e) (6 Mg option), are required to: 1) manage and treat all facility waste with a flow-weighted annual average water content of less than 10 percent in accordance with the requirements of 40 C.F.R. § 61.342(c)(1); and 2) manage and treat all facility waste with a flow-weighted annual average water content greater than or equal to 10 percent, and all wastes that are mixed with water or other wastes where the mixture has a flow weighted annual average water content greater than or equal to 10 percent, such that the benzene quantity, as determined by the procedures in 40 C.F.R. § 61.355(k) is less than or equal to 6 Mg/yr.

Explanation of Violations

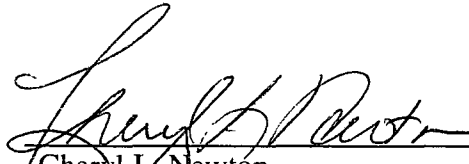
1. BP Whiting is a petroleum refinery, as defined at 40 C.F.R. § 61.341. Thus, it is subject to the requirements of the Benzene Waste NESHAP.
2. BP Whiting's total annual benzene quantity, calculated pursuant to 40 C.F.R. § 61.342(a), is greater than 10 Mg/yr. Therefore, BP is required to manage and treat facility waste in accordance with 40 C.F.R. § 61.342(c), (d), or (e).
3. BP has chosen to comply with the 6 Mg option found at 40 C.F.R. § 61.342(e) at BP Whiting.
4. Pursuant to 40 C.F.R. § 61.357(d), on February 10, 2009, BP submitted the total annual benzene quantity report for calendar year 2008 (2008 TAB Report) to EPA. The 2008 TAB Report for BP Whiting lists the benzene quantity at 95.19 Mg
5. For calendar years 2003 – 2008, EPA alleges that BP exceeded the 6 Mg option, in violation of 40 C.F.R. § 61.342(e).

Environmental Impact of Violations

1. Benzene is a known human carcinogen, shown to cause leukemia. Other chronic effects of exposure include bone marrow depression leading to aplastic anemia, mutagenicity, fetotoxicity, decreased fertility, and possible drying and scaling of the skin. Among the acute health effects associated with benzene exposure are dizziness and lightheadedness; eye, nose and throat irritation; upset stomach and vomiting; irregular heartbeat;

convulsions and death. Ecological effects include death in exposed animal, bird and fish populations and death or reduced growth rate in plant life.

5/18/07
Date


Cheryl L. Newton
Director
Air and Radiation Division

CERTIFICATE OF MAILING

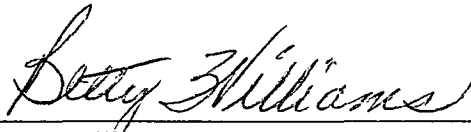
I, Betty Williams, certify that I sent Finding of Violation, No. EPA-5-09-IN-13, by Certified Mail, Return Receipt Requested, to:

Daniel Sajkowski, Business Unit Leader
BP Products North America, Inc.
2815 Indianapolis Boulevard
Whiting, Indiana 46394

I also certify that I sent copies of the Finding of Violation by first class mail to:

Phil Perry, Chief
Compliance and Enforcement Branch
Office of Air Quality
Indiana Department of Environmental Management
100 North Senate Avenue, Room 1001
Indianapolis, Indiana 46206-6015

on the 19th day of May, 2009.



Betty Williams, Secretary
AECAS, (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 70010320 000601860781